

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Emergency Rules

■ EMERGENCY SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to the Part titled Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 IAC 515; 46 Ill Reg 1173) effective 12/27/21 for a maximum of 150 days. The emergency amendments allow Emergency Medical Services (EMS) personnel with current and unencumbered certification as an Emergency Medical Technician (EMT), Advanced EMT, or Paramedic in the National EMT Registry to serve in an Illinois EMS system on a provisional basis until they receive an Illinois license. The emergency rule also modifies the protocols for hospitals to notify DPH and regional EMS system providers that they cannot currently accept new emergency patients and intend to go on bypass status.

COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

JCAR MEETING RESCHEDULED

**Tues. Jan. 18, 10:30 a.m., C-1
Stratton Bldg., Springfield**

During a federal or State declared disaster, hospitals must notify DPH and receive prior approval before going on bypass status. A request for bypass status must include information regarding the length of wait for hospital beds and emergency admissions; state the percentage of currently occupied

(cont. page 3)

Adopted Rules

■ FOID & CONCEALED CARRY

The ILLINOIS STATE POLICE adopted amendments to the Parts titled Firearm Owners' Identification Card Act (20 IAC 1230; 45 Ill Reg 10938) and Firearm Concealed Carry Act Procedures (20 IAC 1231; 45 Ill Reg 10961), both effective 12/21/21, clarifying various aspects of the application and approval process for FOID Cards and Firearm Concealed Carry Licenses (FCCLs). The Part 1230 amendments provide for FOID Cards and FCCLs to expire at the same time; a current FOID will be renewed for 10 years from the date the FOID holder receives a new or renewed FCCL, and a FOID that is due to expire while the holder's FCCL is valid will remain valid until the FCCL expires. Effective 1/1/23, whenever a Firearm Transfer Inquiry (verification of a

(cont. page 2)

ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

(cont. from page 1)

transferee's eligibility to own a firearm) is performed on a FOID Card holder who has submitted a full set of fingerprints to ISP, the holder's FOID card will remain active and be renewed for 10 years from the date the inquiry was approved, provided that the FOID holder is not subject to revocation or suspension. A FOID Card may be imprinted with a designator to indicate that the holder also holds an FCCL. Applications for a FOID or FCCL can be made online or through customer service kiosks at ISP facilities; paper applications will be accepted only from applicants with appropriate proof of an exemption based upon religion or disability (since 1st Notice, ISP has added a list of documents that prove disability for this purpose). Applications must be accompanied by all applicable fees, which will be collected (with a convenience fee) via the State Treasurer's E-Pay Program. If an application is rejected because it is incomplete and a completed application is resubmitted within 60 days, an additional fee will not be charged. Incomplete applications not completed within 60 days will be denied. If an application is denied because the applicant did not qualify for a FOID or FCCL, separate fees will be charged for subsequent applications. If a person with an FCCL or a FOID Card with a designator becomes subject to suspension or revocation of the FCCL, but is otherwise eligible to hold a FOID Card, that person's FOID Card will remain valid for its

duration. The rulemaking also provides that, when ISP develops a system allowing for electronic communication, FOID and FCCL holders will have the option of receiving official communications via e-mail or text message instead of by mail. Other provisions address procedures for checking the validity of FOID Cards and FCCLs; outline procedures for suspension, revocation or cancellation of FOIDs and FCCLs; and outline appeal procedures for persons whose applications for FOIDs or FCCLs are denied. Since 1st Notice, ISP has also clarified that for applications pending as of 1/1/22, no additional fees will be charged if all previously required fees have been paid and the application is complete. The Part 1231 amendments additionally require ISP to notify FCCL holders 180 days (formerly, 60 days) in advance of expiration and provide instructions for renewing the FCCL. Those affected by these rulemakings include businesses that sell or purchase firearms.

Questions/requests for copies of the 2 ISP rulemakings: Maureen B. McCurry, ISP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217/782-7658.

■ RADIOACTIVE MATERIALS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to the Parts titled Licensing of Radioactive Material (32 IAC 330; 45 Ill Reg 10497) and Medical Use of Radioactive Material (32 IAC 335;

45 Ill Reg 10598), both effective 12/21/21, updating these rules to align with U.S. Nuclear Regulatory Commission standards adopted in 2018 and 2020. The Part 330 amendments add a definition for Associate Radiation Safety Officer and Preceptor and also add training and experience requirements for Associate Radiation Safety Officers and Nuclear Pharmacists. Sealed sources of radiation may not be stored without use for more than 2 years unless additional oversight is provided. Other changes set procedural deadlines, eliminate requirements that applications be submitted in duplicate, and eliminate outdated cross-references and redundant language. Amendments to Part 335 also add the Associate Radiation Safety Officer position as well as the position of Ophthalmic Physicist to assist with treatment planning for eye treatments. Other provisions allow physicians more flexibility in permanent brachytherapy treatment and reporting, remove certain requirements for amending a license, and add exemptions for certain board-certified individuals from training and experience requirements. Those affected by these rulemakings include physicians, technicians and others who are licensed to use radioactive materials in medical treatment.

Questions/requests for copies of the 2 IEMA rulemakings: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860.

Proposed Rulemakings

OFFENDER REGISTRATION

The ILLINOIS STATE POLICE proposed amendments to the Parts titled Sex Offender Registration Act (20 IAC 1280; 46 Ill Reg 843) and Child Murderer and Violent Offender Against Youth Registration Act (20 IAC 1283; 46 Ill Reg 848) concerning appeal processes for persons required to register with local law enforcement authorities as sex offenders, child murderers or violent offenders against youth. The rulemakings provide that when an offender fails to register for the required time period (for sex offenders, either 10 years or for life; for violent offenders against youth, 10 years), ISP shall extend the offender's registration period for another 10 years and give written notice of the extension to the law enforcement agency in whose jurisdiction the offender resides. The offender shall obtain a copy of the notice from the local LE agency; if the offender believes this extension was not justified, the offender has 10 business days after receiving the notice to request that ISP investigate the circumstances that led to the extension. The ISP Director will decide whether the evidence is sufficient to justify the extension; if the Director determines there was insufficient evidence to justify an extension, the offender will be notified and given the opportunity for a hearing before an administrative law judge. The ALJ will then issue a recommendation to the Director

(cont. page 5)

(cont. from page 1)

beds, the number of open ICU beds, and the number of potential discharges; and affirm that the hospital has already implemented a surge plan. The DPH Regional EMS Coordinator will review the request and approve it for a period of 2 or 4 hours or deny the request. A hospital will not be permitted to go on bypass status if 3 or more hospitals in the same geographic area are already on bypass status or if transport time to the next nearest hospital will exceed 15 minutes. Bypass status may be requested if no resources (i.e., personnel, equipment, beds) are currently available to treat a given type or class of patient (e.g., stroke, heart attack, trauma) and if all reasonable efforts to remedy the situation have been exhausted (e.g., calling in off-duty staff, canceling elective procedures and admissions). The hospital must also continually monitor the situation to determine when bypass status can be lifted. The emergency rule also requires trauma centers, including pediatric trauma centers, to have at least one Registered Professional Nurse with a current, nationally recognized trauma nursing certification available in the Emergency Department to care for trauma patients at all times, and removes specific requirements for backup RN staffing. Other provisions modify technical and equipment standards for ambulances; establish alternative

Emergency Rules

staffing provisions for private ambulance providers and rural volunteer providers serving communities of fewer than 5,000 residents; and expand the list of required protocols and procedures for EMS services. Those affected by this emergency rulemaking include volunteer, municipal/fire district, and private ambulance services, and hospital emergency departments.

SEXUAL ASSAULT

DPH also adopted emergency amendments to Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 46 Ill Reg 1258) effective 1/1/22 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 46 Ill Reg 840. The emergency and proposed rulemakings implement Public Act 102-674, which allows federally qualified health centers (FQHCs) to submit sexual assault treatment plans to DPH for approval and provide medical forensic services to sexual assault survivors through 12/31/23.

Questions/requests for copies of the 2 DPH rulemakings, and comments on the Part 545 proposed rulemaking through 2/22/22: Tracey Trigillo, DPH, 524 S. 2nd St., 6th Fl., Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

(cont. page 4)

Emergency Rules

(cont. from page 3)

■ CHILD WELFARE WORKERS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted emergency amendments to Licensing Standards for Child Welfare Agencies (89 IAC 401; 46 Ill Reg 1101), Licensing Standards for Group Homes (89 IAC 403; 46 Ill Reg 1120) and Licensing Standards for Child Care Institutions and Maternity Centers (89 IAC 404; 46 Ill Reg 1137), all effective 12/22/21 for a maximum of 150 days. Identical proposed amendments appear in this week's *Register* at 46 Ill Reg 653, 657 and 661. The emergency and proposed amendments, in response to agency staffing shortfalls, broaden the acceptable academic and experience qualifications for child welfare and child care supervisors at the agencies and institutions regulated under each Part. In Part 401, a requirement that agency child welfare supervisors have a master's degree in social work or another human services field plus at least 2 years full-time supervisory experience in a social work setting now applies to a minimum of 70% of an agency's child welfare supervisors. The remainder (up to 30%) of an agency's child welfare supervisors may have master's degrees in non-human services fields plus 3 years experience, or bachelor's degrees with 3-5 years' experience

provided they agree to enroll in a master's degree-level human services program within 18 months after hiring. The Part 403 and 404 amendments require at least 70% of child care supervisors to meet existing qualifications (at least 25 years old, with at least 60 credit hours/2 years college and 2 years full time residential child care experience). The remainder may have bachelor's degrees, high school diplomas or high school equivalency certificates plus 1-3 years' experience; those with only high school education must enroll in a college level program within 12 months after hiring. All 3 rulemakings require applicants who do not meet the existing qualifications to be approved by DCFS' transcript review committee and the Associate Deputy of Agencies and Institutions Licensing before an employment offer is made. Employing agencies must document whether hires who require additional training or education are making progress toward that goal. Agencies must make efforts to recruit applicants who meet the existing requirements and state that applicants meeting those requirements are preferred when posting openings. All 3 rulemakings also update the list of degrees that will be accepted as human services degrees for purposes of employment. Child welfare agencies and residential facilities are affected by these emergency rules.

Questions/requests for copies/comments on the 3 proposed DCFS rulemakings through 2/22/22: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, (217) 524-1983, TDD: (217) 524-3715, DCFS.Policy@illinois.gov

UNEMPLOYMENT BENEFITS

The DEPARTMENT OF EMPLOYMENT SECURITY adopted emergency amendments to Claims, Adjudication, Appeals and Hearings (56 IAC 2720; 46 Ill Reg 1155) and Payment of Benefits (56 IAC 2830; 46 Ill Reg 1162), both effective 12/27/21 for a maximum of 150 days. Identical proposed amendments appear in this week's *Register* at 46 Ill Reg 786 and 789. The emergency and proposed rulemakings re-establish provisions for issuing unemployment benefits by paper check when a claimant cannot receive benefits by direct deposit and benefits cannot be issued by debit card. (DES states that the financial institution that issued the State's unemployment benefit debit cards has ceased issuing them.)

Questions/requests for copies/comments on the 2 proposed DES rulemakings through 2/22/22: Kevin Lovellette, DES, 33 S. State St., 9th Floor, Chicago IL 60603, (312) 793-1224, Kevin.Lovellette@illinois.gov

Proposed Rulemakings

(cont. from page 3)

and the Director will issue a final decision. Additionally, the Part 1283 rulemaking changes the name of the Part to “Murderer and Violent Offender Against Youth Registration Act”. Local law enforcement agencies may be affected by these rulemakings.

Questions/requests for copies/ comments on the 2 ISP rulemakings through 2/22/22: Ms. Maureen B. McCurry, ISP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217/782-7658.

■ ALTERNATIVE UTILITIES

The ILLINOIS COMMERCE COMMISSION proposed amendments to Obligations of Retail Electric Suppliers (83 IAC 412; 46 Ill Reg 697) and proposed a new Part titled Obligations of Alternative Gas Suppliers (83 IAC 512; 46 Ill Reg 748) reflecting recent statutory changes to the Public Utilities Act. The amendments to Part 412 and the new Part 512 align the definition of an alternative retail electric supplier (ARES) or alternative gas supplier (AGS) with the Public Utilities Act and define an ARES or AGS sales agent as an employee, contractor, agent or other person engaged by an ARES/AGS to solicit new customers (agents acting on behalf of customers are excluded from this definition). The term “customer” is applied equally to residential and small commercial customers. An ARES/AGS is

generally (with specified exceptions) prohibited from submitting an enrollment to change a customer’s electric or gas supplier if the customer received utility assistance in the previous 12 months from the Low Income Home Energy Assistance Program (LIHEAP) or the Low Income Home Water Assistance Program (LIWHAP), or is currently participating in a Percentage of Income Payment Plan (PIPP). Marketing materials and in-person or telephone solicitations used by an ARES or AGS must adequately disclose the prices, terms and conditions of the products and services offered; include a “price to compare” in cents per kilowatt hour (kWh) for electricity or price per therm for gas; and clearly state that the ARES or AGS is not the customer’s current utility and the customer has no obligation to change suppliers. In-person solicitations to non-English speaking prospective customers must be conducted in that person’s chosen language by an agent fluent in that language, or through an interpreter. These requirements, however, do not apply to “goodwill” or institutional advertising used simply to increase public awareness of an ARES or AGS. Sales contracts must disclose whether the contract renews automatically at the end of each contract period; whether rates are variable; include estimated total monthly costs in cents per kWh or price per therm; and advise the customer that the agreement can be terminated at any time without fees or penalties. The rulemakings also include

specifications for uniform disclosure statements, rate notices, and online marketing materials; conditions for renewing, rescinding, or terminating contracts or reassigning customers to a new supplier; dispute resolution procedures; rules for the conduct and training of ARES and AGS sales agents; records retention requirements; and, in Part 412, conditions for describing an energy product as “green” or renewable. Alternative retail electric suppliers, alternative gas suppliers, and their small business/commercial customers are affected.

Questions/requests for copies/ comments on the 2 ICC rulemakings through 2/22/22: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434. Please reference Docket Nos. 17-0857 and 20-0457.

■ HUMAN SERVICES GRANTS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed a new Part titled Human Services Capital Investment Grant Program (14 IAC 670; 46 Ill Reg 665) implementing a program of capital improvement grants to physically improve or expand facilities owned or leased by human services providers. DCEO and the Department of Human Services will cooperate on program establishment and administration. DCEO will

(cont. page 6)

Proposed Rulemakings

(cont. from page 5)

administer these grants to human services providers, either directly or indirectly through one or more intermediaries, subject to appropriation, and will consult with DHS on priorities for capital improvement grants to human services providers. Eligible human services providers are defined as non-profit corporations in good standing, including faith-based organizations, that provide services directly to low-income or marginalized populations in one or more of the core programs of DHS: mental health, rehabilitation services, substance use prevention and recovery, family and community services, developmental disabilities, early childhood education, or any other core program created by DHS. These include, but are not limited to, domestic violence shelters; rape crisis centers; comprehensive youth centers; Teen Responsibility, Education, Achievement, Caring and Hope (Teen REACH) providers; supportive housing providers; developmental disability

community providers; behavioral health providers; and other community-based providers. Grants will be awarded via a competitive process and will be subject to the conditions of the Grant Accountability and Transparency Act and any other applicable federal or State laws and regulations. Grants must be used for physical improvements and cannot be used to purchase land or buildings, make improvements to a personal residence, pay debt or ongoing operational costs, or make improvements to those portions of a faith-based provider's facility that are used primarily for religious purposes. Non-profit organizations that provide human services may be affected by this rulemaking.

Questions/requests for copies/ comments through 2/22/22: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, jolene.clarke@illinois.gov

MEDICAL PAYMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY

SERVICES proposed amendments to Medical Payment (89 IAC 140; 46 Ill Reg 792) that update various provisions. The rulemaking changes references to Advanced Practice Nurses to Advanced Practice Registered Nurses (APRNs), clarifies when collaborative agreements between APRNs and physicians or practitioners are necessary, and clarifies the disclosure and notification requirements when changes are made in a collaborative agreement. Other provisions give long term care providers 120 days (currently, 45 days) to submit resident admissions or changes to HFS effective 1/1/22; remove obsolete language and provisions for defunct medical payment programs; and institute gender neutral language.

Questions/requests for copies/ comments through 2/22/22: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217/782-1233, HFS.Rules@illinois.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. Three DFPR rulemakings (38 IAC 160 and 190, 68 IAC 1130) and the SOS rulemaking will be considered at the January 18, 2022, JCAR meeting in Springfield; all other rulemakings will be considered at the February 15, 2022 meeting. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Sales Finance Agency Act (38 IAC 160; 45 III Reg 13502) proposed 10/29/21

Illinois Credit Union Act (38 IAC 190; 45 III Reg 13508) proposed 10/29/21

Administrative Procedures for General Professional Regulation Under the Administrative Code (68 IAC 1130; 45 III Reg 13807) proposed 11/5/21

Consumer Installment Loan Act (38 IAC 110; 45 III Reg 6086) proposed 5/14/21

Payday Loan Reform Act (38 IAC 210; 45 III Reg 6117) proposed 5/14/21

Predatory Loan Prevention Act (38 IAC 215; 45 III Reg 6137) proposed 5/14/21

Retail Installment Sales Act (38 IAC 216; 45 III Reg 6146) proposed 5/14/21

Motor Vehicle Retail Installment Sales Act (38 IAC 217; 45 III Reg 6151) proposed 5/14/21

DEPT OF HUMAN SERVICES

Child Care (89 IAC 50; 45 III Reg 12455) proposed 10/8/21

SECRETARY OF STATE

Certificates of Title, Registration of Vehicles (92 IAC 1010; 45 III Reg 13660) proposed 10/29/21

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*
Senator John F. Curran
Senator Donald DeWitte
Senator Kimberly Lightford
Senator Tony Muñoz
Senator Sue Rezin

Representative Tom Demmer
Representative Michael Halpin
Representative Frances Ann Hurley
Representative Steven Reick
Representative Curtis Tarver, II
Representative Keith Wheeler, *co-chair*

Kim Schultz
Executive Director